

App. F. IX-4

PRESERVED

193 / . 3 2

File No. SS - 31

Serial Nos. / 4 2

Previous References

Dep No. 727-27

Legis

Later References

Pol 115-32-1

hys 84-144-32

CS-68-32-24

hys 4-39-1

General and Revenue Secretariat.

Serial Nos.

Part B for February 1932

SUBJECT.

Proposed Legislature
Re. Khairan Bankers in Dargam

Serial
No.

Haudakri Bankers in Mangalore

The grievances complained brought to light are:-

1 The Pro. notes executed are for double the principal amount paid

2 The rates of interest are probably the highest on record

3 They do not grant receipts for payments made.

4 When filing suits they give no credit for payments made

5 All evidence is tampered with

2) The Mysore Revenue Loans Regl. affords ample scope for disallowing excessive interest.

3) Points 1, 3, 4 & 5 can be remedied by the party himself by seeking the protection of law and pleading undue influence.

Subd

From

27/4/28

1) Sifted with the file re Pathan Melase in Ban palm city.

8/9/5.

Messias

Δ 1-2 2/1918

Serial
No.

Bam's Unwound Act Vol II
Containing Act X of 1918 is
put up & subd

Dues

16/5/28

mt
16/5/28

7) The Usurious Loans Regulation
and S. 24 of the Contract Act provide for
some measure of relief to debtors
in cases of this kind. A private Bill
to provide for the regulation of money-
lenders on the lines of the British
Money Lenders Act was brought before
the Legislative Assembly in Feb. 1923
but was not carried through. The
debate on this Bill is interesting &
is herewith subd. for perusal.

8) The Agricultural Commission
say in their Report that the provisions
of the Usurious Loans Act are not fully
utilized & that, "if they are," the worst
evils of uncontrolled usury" would be
removed to a considerable extent. The
Commission have recommended an
enquiry in all the provinces into the
cases of the future to utilize this Act.
It is for consideration whether a similar
enquiry may not be made.

Serial
No.644
14.7

working of the Esurians Loan Rep^y n
here and the directions in which
the Regulation requires amendment
in order to put down practices of the
kind complained of.

Legy
n (leave)
3rd (Rembo)

12
9/7

13/7

2) The report the police seems to
bear out to some extent the statement
in the paper. But we have not
enough material information. The
attending the S.P. the D.C. The maybe
~~article to submit~~ a draft the
article & a report maybe called for

15/7
draft
24/7

10)

Draft Subd

Done

24/7/28

11) View 24/7

To the Dg of Police

The Dy Comm Bror

Calls for a report in the matter

100P640-1826.7.28

NOTE—Contn. sheet.

General and Revenue
Secretariat.

No. File No.

of 192 .

Serial
No.

105 563 / 28-29 A 4.9.28
From

One Dy Commr of Bangalore
Has called for in this office
of 26.7.28, furnishes a report
regarding the doings of Khair
Bankers and opines that a
special enactment to restrict
their activities seems necessary.

Referred with refer to para
infra. The S. G. of Police has
not yet forwarded his report on
the subject. It may perhaps be
awaited.

Subd
7.9.28.

Ref. - Para 9.

(b) The Dy. Commr's report is not
for perusal. The legislation he suggests
may be considered after the Dy. Commr's
report is received.

General and Revenue
Secretariat.

File No.

of 192 .

Serial
No.No 834/2D dt 18/19. 9. 28
From:The Inspector General of Police
With refce to the enquiry
~~forwarded~~ re 'Kandhari Bank.Baugalou' forwards copy of
report received from the A.S.P.
Baugalou city stating that
under the circumstances explain
by him no action can be taken
15) The I. G. P adds that the
Inspectors S. H. O. have instructed
to take steps if the Bankers
wrongfully confine or wrongfully
restrain their debtors.Filed for perusal with refce
to paras 9 & 14 supra.mu.
21/9/2816) Misbhatyker ref to my letter
1st inst.

25/9

25/9

17) The Police Commr in Bombay
seems to have been taking
action under Sec 27 of the Bombay

NOTE—Contn. Sheet.

General and Revenue
Secretariat.

File No.

of 192 .

Serial
No.Rebel with
Bombay Code Vol IIBombay City Police Act 1902. Rebel
with refce to para 16 supramu
6.10.28

3rd Member)

15)

That the activities of these Patrons
in Bangalore are frequently
objective make character seem
clear enough. But whether the act is so
present
of sufficient volume to justify special
legislation is open to doubt. Any
action that may be taken will
apparently have to be under the Police
Regulation. This may be submitted
to the second member for consideration

hu
8/10/28

19). 2nd Member)

Ask 28/1 to get copies of ¹⁰son
2-3 typical documents referred to in
the reports. I think a section in the M.
Regn similar to Sec 27 of the Bombay Act
would be useful

csz
15/11

Draft rebel

mu
16/11/28

22) Member

16/11/28

NOTE—Contn. Sheet.

General and Revenue
Secretariat.

File No.

of 192 8

Serial
No.

To Mr. J. G. of Police
No. 21488, 18-10-28
Requests him to obtain and forward
for the perusal of the Secretary
of some typical loan documents of
Khandari Bank, Bangalore
referred to in the report of the
Khandari Bank.

NO C 1104 of 21.12.28
From

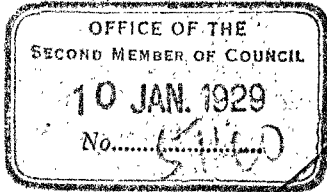
The J. G. of Police
As desired in this office letter
supra forwards for perusal and return
a document received from the
Superintendent of Police, Bangalore
25) Subd with ref to para 19 supra.

2.1.29
21
21) The interest mentioned in the note received
was Rs 7500

See)

25) The Khandari money lenders generally,
charge & recover interest at 1 pie per day
per day is more than 15 p.c. per month. As
a rule they collect this interest in the majority
of cases, and they resort to civil courts only
against such of the debtors from whom they

Serial
No.



cannot recover anything. The evil
is growing in Bangalore city, and
the poor debtors seem to require
some protection.

2nd Member

P. M.
5/6
W
I shall be glad to discuss ^{the} with the San

Secy

W
2/11

orders of the 2nd member:
what can be done
matter must
not.

P. M.
4/6

money lenders

ROUTINE NOTES.

1578 / 830
P

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Mr. N. Rao will have
put up a note on the
subject on the lines
discussed in person
D. M.
4/2

submitted.

The note is placed
below:-

Done
30/3/29

M. Rao put up the Panjale
M. d. R. if accepted noting its
Salient features.
It was moved for long
apt. & it has been

D. M.
18/9

18/9

To
the library for identity
putting up a copy

10/9 19/9

N. B.—Should routine notes be written on small slips,
the notes must be copied, or slips pasted on
this form.

An order has been placed for the
Act and it has not been
received in the library.

19/9 Subd. Secy

1598

p 2 192

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

A copy of the Punjab Regulation of Accounts Act, 1930 is put up herewith.

To The Superintendent, Protection Branch, with Compliments)

12/19/30 Subd Mr Jayarao asked to have studied the subject already. This may kindly be sent to him in the 1st instance

(Key)

222
23/9

A note regarding the Punjab Regulation of Accounts Act I. of 1930, is herewith put up:-

Asst Secy
Protⁿ Branch
with Compliments

Done
5/11.

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

To Mr. Secy. Punjab Le.
2630 of 15.11.29

Requests him to
forward a copy of the
Money Lenders Bill

Sub B

21874 of 26.11.29

From

Mr. Secy, Punjab Legation
to desired in this office
letter of 15.11.29 forwards a
copy of the Report of
the Select Committee on the
Punjab Reg'n of Accounts Bill
& says that copies of the
Act may be obtained direct
from the Govt. of Punjab
Punjab, Lahore.

Subd with draft acknowledgment

N.B.—Should routine notes be written on small slips,
the notes must be copied, or slips pasted on
this form

Done
2/12/29
J. S. S.

Given
a letter to the Punjab Money Lenders?

2/12/29

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record].

The file re: the Moneylender
has been submitted by me to
the Secy, and it is pending
with him for being submitted
to the 2nd member.

My (Secy)
7.12.24
1/7/11

I

The main grievances alleged against the money-lenders- especially the Kandharies, Marwaries etc., - in this State are:-

1. That they charge exorbitantly high rates of interest.
2. That they many times renew the documents adding the accumulated interest to the Principal, thus charging compound interest.
3. That in many cases the documents are got executed for larger amounts than are - actually paid to the debtors.
4. That generally they deduct interest in advance and do not give credit for the same.
5. That they use pressure and often-times even go to the length of assaulting and using violence, in order to recover the - amounts etc.

II

In the birthday Session of the R.A. held in June 1928, a representation was made in this matter and the Government replied that the question of undertaking a legislation similar to the Money Lender's Act of England would be considered after the agricultural commission then sitting in ~~the~~ British India published their report. The report is now published and the Commissioners in para 366, commend to the consideration of local governments, the principle, underlying the British Money Lender's Act of 1927, though they seem to be of opinion (vide para 364) that the - solution of the problem of indebtedness is only to be found in the cumulative effect of the spread of literacy and in the co-oper-

The District Magistrate Bangalore, in his letter of the 4th September 1928 (para 2) recommends a special enactment for these Kandhari Bankers, compelling them

(1) to get their names registered as such and obtain licenses for carrying on moneylending.

(2) to maintain accounts in English or Urdu in respect of each debtor etc.

(3) to keep a list of their debtors and

(4) to make the list and the accounts available to the Police or specified Magist when called upon to do so. He also requires the District Magistrates to be empowered to cancel the registration and ~~report~~ ^{report} them ~~xxx~~ on grounds to be given by him in writing. A suggestion is made to amend the Police Regulation suitably to include the power to extern undesirable aliens as in Bombay City.

Section 27 clause (1) of the Bombay City Police Act IV of 1902 empowers the Commissioner of Police to order gangs or bodies of persons whose movements in the City are likely to cause danger or alarm or who are suspected of entertaining unlawful designs, to conduct themselves peacefully or to disperse and remove themselves from the City of Bombay. Section 43 of our -- Police Regulation contains an exactly similar ~~provision~~ provision enabling the District Magistrate or any Sub Divisional Magistrate to pass such orders. The only omission is that while under clauses (3) of the Bombay Act, the Commissioner of Police has ^{power} ~~power~~, in case of disobedience of the order passed under clause (1) to arrest and remove such persons outside

the City, our Regulation contains no similar provision to enforce the order. It only provides in section 72 a penalty for controvention of orders given under Section 43. It certainly seems necessary to add a clause to section 43 similar to clause (3) of the Bombay Act, enabling the District Magistrate to arrest and - remove the gang or body of persons to such - place as he may in each case direct. Such a provision would, I think, be sufficient to control such of these money lenders as resort to assault and violence against their debtors.

V.

To mitigate the evils of usury and unfair dealing ^{to} ~~to~~ rampant among the Kandhari and such other money lenders, an enactment such as the money lenders Act of 1900 and 1927 as in force in the United Kingdom, with such suitable -- modifications as may be considered advisable to suit local conditions, seems quite appropriate and necessary.

VI.

A short synopsis of the Money Lender's Acts mentioned above are given below:-

MONEY LENDER'S ACT 1900.

Section 1 deals with the re-opening of transactions of money lenders and corresponds to sections 3 and 4 of the *Usurious* Loans Regulation of 1923.

Section 2 makes it compulsory on every money lender as defined in section 6 to -- register himself as a money lender under his own or usual trade-name and prohibits him from transacting business in any other name. Clause (1) (d) of this section compelled him on reasonable request and on tender of a rea-

reasonable sum for expenses, to furnish the borrower with a copy of any document relating to the loan or any security therefor.

The breach of any of the provisions of section 2 clause (1) is made an offence punishable under clause (2). Section 3 empowered the Commissioners of Inland Revenue to make regulations respecting registration etc. Clause (2) of this section limits the period during which registration is effective to 3 years but provided for its renewal.

Section 4 provides penalties for false statements and representations and section 5 raises a presumption as to ~~acknowledge~~ knowledge of infancy of a borrower. The word "money lender" is defined in section 6, as to include, subject to certain exceptions mentioned therein, "every person whose business is that of money lending or who advertises or announces himself or holds himself out in any way as carrying on that business"

Sections 2 and 3 of this Act of 1900 have been repealed by the Money Lender's Act of 1927.

The Money Lender's Act of 1911 which slightly modified the act of 1900 is now -- completely repealed by the recent Act of 1927

So that the Law at present in England as regards Money Lenders is contained in -- sections 1,4,5 and 6 of the Act of 1900 and the whole of Act of 1927.

Money Lender's Act of 1927

Sec.1

The Act of 1927 does away with the registration of money lenders but instead prescribes an excise license to be granted to a person who holds a certificate under section 2 which has to be granted ^{by} a petty Sessional Court.

Clause (6) shows the grounds on which such certificates may be refused. There ~~is~~ an appeal provided for from the order of refusal to grant a certificate-- Section 3 provides ~~se~~ for suspension and forfeiture of certificates when the grantees are convicted of offences mentioned therein. On the suspension or forfeiture of a certificate, the license becomes void-- Sections 4 and 5 prescribe certain restrictions on money lending advertisements. Section 6 necessitates every money lender's contract to be in writing signed by the borrower- Section 7 prohibits C.I. and provision as to defaults. Section 8 obliges the money lender to supply information as to state of loan and copies of documents relating thereto. Section 9 contains the provisions as to ~~Bankru~~ Bankruptcy proceedings for money lender's ~~in~~ loans.

Section 10 amends section 1 of the Act of 1900 by raising a presumption of the transaction being harsh and unconscionable in all cases in which the interest exceeds 48%

Section 11 prescribes the Courts which have jurisdiction to try money lender's suits to recover money ^{but.} ~~but~~ Section 12 prohibits money lenders charging expenses on loans. Section 13 prescribes a special period of limitation for money lender's actions - Sec.14 deals with pawn broker's loans and section 15 with interpretation of words etc.

Section 16 necessitates notice and information to be given to the assignees on assignment of Money-Lender's debts and section 19 deals with the application of the Act in respects such assignees.

VII.

The next point to be examined is whether such an enactment as the Money Lender's Act would be a sufficient remedy for the evils now complained of. It cannot be said that it can completely prevent dishonest money lenders from getting documents for larger amounts than what is actually paid by them, since it is always a matter of difficulty to prove such a case in a Court of Law.

The following additional provisions in the proposed money lenders regulation may perhaps ^{go} ~~for~~ a long way in minimising the evils still further and they are

(1) All contracts by money lenders must be in writing signed by the debtor and duly attested by two witnesses who are not money - lenders.

(2) They must be obliged to maintain true and correct accounts and

(3) In all suits by money lenders, it ^{should} ~~shall~~ be made obligatory for them to produce their - accounts to support their claim.

VIII.

Another point that may have to be considered is whether any ~~any~~ proposed regulation should be for particular communities such as Kandharis etc. ^{or} ~~and~~ generally for all money lenders. Though harsh and *unconscionable* dealing is very much prevalent among those communities, it cannot be said that such conduct is wholly absent among the other classes who carry on the money lending business. It seems therefore better to legislate for all money lenders to whichever ~~ex~~ caste or nationality they may belong, excluding of course Joint Stock Companies or Co-operative Institutions which carry on banking business.

It might be said however that such an enactment would work great hardship on persons who occasionally lend money; but the definition of a money lender (Section 6 of the Money Lender's Act of 1900) excludes such persons from the operation of the Act. It applies only to persons who carry on the business of money lending and not to persons who now and then lend money. The carrying on of a business ~~implies~~ implies a repetition of acts and excludes an isolated transaction (Smith Vs Anderson 1880, 15 Ch D 247). It is necessary to prove some degree of system and continuity in the money lending transactions before a person can be said to be a money lender under the Act (Kirkwood Vs Gadd 1910 A.C. 422 ^{at} ~~and~~ 423 and 431). It has therefore been held that ^{The act does not apply to} persons bonafide carrying on any business not having for its primary object the lending of money, in the course of which ~~and~~ for the purposes whereof ~~in~~ they lend money (Litchfield Vs Dreyfus 1906 1 KB 584). It is of course a point for consideration whether many of the Kandhari money lenders may not escape the operation of the Act by this means - This is however a matter to be discussed and settled when the ~~actually~~ bill is drafted. The purpose of this note is only to show the utility and the necessity for having a measure ~~on~~ ^{on} the lines of the Money lenders Act of -- England, to minimise the hardships caused by such people.

Dmp
30/3/29

The Punjab Act I of 1930 concerns itself only with regulating the keeping of accounts relating to certain moneylending transactions in the Punjab. It does not provide either for registration of moneylenders as was done in the English Act of 1900, or for licensing as is provided for in the Act of 1927.

Section 3 of the Punjab Act makes it obligatory on a creditor to maintain and furnish accounts, once in every six months, to the debtor " in such manner as the Local Government may prescribe ". The accounts are to be kept in such a way as to show the interest items separate and distinct from the principal sum due. Section 4 provides a penalty for noncompliance with the provisions of sec.3. It enables Courts, - before whom any suit ~~for~~ proceeding is taken for the recovery of the loan, to disallow, when it is found ~~the~~ that the creditor has not complied with sec.3, the interest claimed in whole or in part; and the plaintiff in such cases is debarred from getting any costs from the debtor on account of the litigation.

Section 5 makes the Act apply only to transactions which take place after the passing of the Act. The last section, viz, section 6 empowers the Government to frame rules regarding the forms etc. in which the accounts are to be maintained and the manner in which they are to be furnished to the debtor.

Among the definitions given in the Act, the important ones are those of the words "CREDITOR" and "LOAN"(Sec.2 Clauses 5 & 7). A creditor under this Act~~me~~ means the same person as a 'moneylender' under the English Acts and refers to one who "in the regular course of business" advances a loan as defined in the

Act. The word "loan" is defined so as to exclude transactions with Banks, Companies, Co-operative Societies, etc. as also loans advanced to traders. The Act does not also apply to negotiable instruments other than Promissory notes. Loans secured by immovable properties are also excluded from the operation of the Act.

It is thus clear that the Punjab Act is very much limited in Scope and may not perhaps provide sufficient remedies for the numerous grievances alleged - against Kandhari moneylenders in the state. Some sort of control over such people appears to be necessary and that can be had only by either making registration of such moneylenders obligatory or compelling them to take out licenses before they can legally carry on their trade within the State. The general principles on which legislation may be undertaken ~~ix~~ are indicated in my previous note of 30th. March 1929.

Impey
5/11/20

Serial
No.

The salient features of the English Money-lender's Act of 1927 and of the Punjab Regulation of Accounts Act of 1930 have been indicated by Mr. Jaya Rao in the two separate notes submitted by him. These Acts are applicable however to all persons who carry on money lending as a business and they do not appear designed to meet the case of a particular community of money lenders as in the present instance, whose activities are found objectionable.

In February 1923 a member of the Legislative Assembly sought leave to introduce a Money lenders Bill -- a Bill to license and regulate money-lending transactions and to limit the interest charged on loans of various kinds in British India. The Bill was thrown out. It was pointed out in the -- course of the debate that prior to the introduction of the Usurious Loans Act of 1918 (corresponding to our usurious Loans Regulation, all Local Governments had in fact been consulted as regards the desirability of introducing provisions for regulation of money lenders and that the reply of all -- Local Governments was unanimous that the definition of the terms "money-lenders" and the provisions about registration were practically unworkable -- having regard to the conditions here. (H. W.)

Similar considerations would apply in the case of Mysore also and we have already enactments like the Usurious Loans Regulation and the Agricultural Relief Regulation. It is therefore submitted that

enactments like those referred to are hard to think of in connection with the problem in question.

The other course that can be thought of is to having some provision in the Police Regulation in order to control the activities of such particular class of money lenders ^{as} go beyond reasonable limits and as constitute a menace to society

In paras 18 and 19 of the notes the present 1st member and the present 2nd Member have given expression to the view that action to be taken is apparently under the Police Regulation and it is suggested a section like sec.27 of the Bombay Act would be useful.

Taking it then that some provision should be made under the Police Regulation the question will be in what form this can best be done. We have in our Police Regulation a section already corresponding to section 27 of the Bombay Act. That section is section 43 and is exactly the same as in the Bombay District Police Act. This section provides however "for disposal of gangs and bodies of persons" with unlawful designs by addressing notices to the leaders of the gangs. It is doubtful if, without some straining of some of the words, it may be applied to cases of individual money lenders who may so conduct themselves as to be a source of danger or alarm.

It is to be clearly applicable, have to be
The section may, if approved, be suitably amended providing for the power to deal with classes of money lenders or individual money lenders that so conduct themselves as to cause danger or alarm etc

Serial
No.

There is one other aspect that may be mentioned in this connection. In B.I. cases of persons who are undesirable foreigners are dealt with under the Foreigners Act.

It has been proposed in connection with another file that, in order to deal with such cases, an enactment like the Foreigners Act may be introduced into the State with such modifications as the circumstances may demand. If such an Act is introduced into the State it will then become unnecessary to propose any changes even in the Police Regulation.

*Secy)*22² 19/11

Extract from the resolutions of the Board of Agriculture passed at the 18th, 19th and 20th Board meetings held on 8-2-1930, 15-3-1930 and 8-9-1930 on the recommendations of the Report of Royal Commission on Agriculture.

x x x x x x x x x x

287
12/1
28 Legislation on the lines of the British Money Lenders' Act of 1927. Resolved that the consideration of the question of introducing legislation on the lines of the British Money Lenders' Act of 1927 be taken up after obtaining the necessary literature on the subject.

x x x x x

The question of introducing legislation on the lines of the Prussian and British Money Lenders Acts is under consideration separately. Subd.

Proc
13/1 1930

The main features connected with the Money Lenders' Act of 1927 have been noted separately

Extract from the Resolutions of the Board of Agriculture passed at the 18th, 19th and 20th Board meetings held on 8-2-1930, 15-3-1930 and 8-9-1930 on the recommendations of the Report of Royal Commission on Agriculture.

x x x x x x x x x

Legislation on the lines of the British Money Lenders' Act of 1927. Resolved that the consideration of the question of introducing legislation on the lines of the British Money Lenders' Act of 1927 be taken up after obtaining the necessary literature on the subject.

x x x x x

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

in the file relating to
the question of taking
some steps to prevent
the objectionable activities
of Pathan moneylenders in
Bangalore. The conditions
here are not the same as
in England, and it appears
impracticable to have
here a Regulation on

N. B.—Should routine notes be written on small slips
the notes must be copied, or slips pasted on
this form.

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

the lines of the English moneylender's Act.

The Usurious Loans Regn provides for relief to be given in cases of excessive interest, but as the Regn leaves it entirely the discretion of the judges of the state beyond what percentage the rate may be regarded as usurious, the beneficial effects depend entirely on the sound exercise of discretion vested in judges. The general practice appears however to be not to allow ordinarily beyond 2% per m.

The Usurious Loans Regn has been in force from about 7 years, and must have had scrutiny frequently at the hands of the civil judiciary in its application to the conditions obtaining in several parts of the state. The question whether its scope may be enlarged so as to

N. B.—Should routine notes be written on small slips
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this form.

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

include some of the provisions of the British Moneylenders Act—may perhaps be examined, in view of the repeated representations on the subject, after ascertaining ^{the opinion} of the High Court formed in consultation with the civil judiciary.

File connected with Pathan moneylenders is also submitted herewith.

(Chief Secy)

14 JAN. 1931

3) This may wait until the abadwarra returns to the

new
16/1
289
16/1

4) There are many practical difficulties to undertake legislation in this matter. The provisions of the Indian Moneylenders Act.

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Cannot be applied to ~~the~~ ^{the} M. G. cone
 Since the conditions here are different.

My own opinion is that if the ^{civil} judges

concerned are comparatively

the Pathan Money Lenders can be
 easily brought under control.

There is sufficient power under the law
 at present to disallow exorbitant

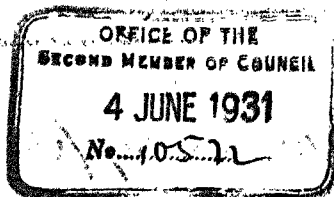
rates of interest claimed by this class
 of people. But the judges do not exercise
 their powers lest ... become un-

popular

The trouble exists not from want of
 funds legislation, but from unwilling-
 ness to fully exercise the present powers.

The H. C. may perhaps be requested
 to examine the question & forward
 report with their opinion.

EWAN'S OFFICE
 6 JUN 1931



N.B.—Should routine notes be written on small slips
 the notes must be applied on slips pasted on
 this form

I agree
 6-31
 9-6-31
 A. M. 11/6

2nd Member
 Please submit to Dewan
 4/6/31
 3/6
 3/6
 4/6/31

Serial
No.

Snd with draft to the Regis
High Court

Pm

2/6/31

Chief Clerk)

6
2.7.31

8) m 3/7/31

9) m 6/7/31

NO P 148 & 6.7.31

The Registrar, High Court
Requests him to obtain
& forward to Court the
opinion of the High Court
in the matter of amending
legislation on the lines of
the British money lenders
Act to meet the growing
trouble of Pathan & Sikh money
lenders

No 2, dt 68/31-32 Or 30-10-31
From

The Resolution, High Court
Formed the opinion
of the judges of the High Court
in the matter of the desirability
of mandating legislation in
Ceylon on the lines of the
Money Lenders Act

10 The Chief Justice is of
opinion that the Indian
Money Regn which follows the
English Money Lenders Act, 1900,
contains enough safeguards
while it omits to include the
provision for the Registration
of ~~money~~ money lenders. He
thinks that the latter provision
is unworkable under our
conditions. He further recommends
that the system of Receipts
and Statements & accounts
provided for in Chapter III
of the Ceylon Agr Relief Regn
may be a safety measure.

The other judges agree in
that view.

Subd with refer to paras 576 and

11/31

11) Please put up copies of
Registration of Money Lenders
Regulation of Money Lenders Act (1930)

Serial
No.

Sited with a copy of the Agri Re
Regⁿ and the Report of the Provincial
Banking Enquiry Committee. Refer to the Punjab Act
is indicated & the price as annexed
by the S.C. in the file is flagged
Encl⁵

Done
25/11/31

13) Phas get a copy of the
Punjab Act & put it in

Ch. 11/31

14) (a) The High Court has sent its opinion in the matter
of the desirability of undertaking legislation on the
lines of the British Money Lenders Act, 1927, to prevent
objectionable activities of both the marwari and pathan
money lenders. The English Act requires every money
lender to take down license every year. Under that
Act the rate of interest is controlled and the money
lender is compelled to keep proper accounts and give
extracts therefrom to the borrower.

(b) About the feasibility of licensing money lenders
India the Bombay Provincial Banking Enquiry Committee
at page 185
1929-30, state/as follows:

" As the experience of the working of the Dekkha
Agriculturists' Relief Act shows, the more restraints
are placed on the money-lender, the worse becomes the
position of the borrower. It would also be difficult
to make provision for the inclusion of a large class of
people who, though not money-lenders themselves, lend
their surplus money occasionally to others. We,
therefore, do not support the proposal for licensing
money-lenders and we think that the present state of
things can be considerably improved if the proposals
that we make below for the regulation of the money-
lenders' accounts are accepted "

That Committee recommends legislation on the lines of the Punjab ~~xxx~~ Regulation of Accounts Act, 1930, being undertaken. The provisions and the effects of that Act are summarised as follows:-

" It is absolutely necessary, if the relations of the money lender and the debtor are to be put on a better footing, that the money-lender should be obliged to keep an account of his transactions with each debtor and furnish the latter with a copy thereof. We, therefore, suggest that legislation should be undertaken on the lines of the Punjab Regulation of Accounts Act of 1930. Under this Act a creditor is compelled to keep regular accounts of all transactions with each debtor and to furnish him, every six months, with a statement signed by him or his agent showing the balance outstanding against such debtor, and all transactions relating to the loans entered during the ~~six~~ months to which the statement relates. The local Government are empowered to frame rules prescribing the forms in which the accounts are to be kept and the manner in which the extract of his account is to be furnished to the debtor. If no accounts are kept, the Courts can, in any suit, disallow either wholly or in part, the interest found due and also the costs of the suit. If no copy of the account is supplied to the debtor, the amount of interest upon the loan for which the creditor omitted to furnish the account has to be disallowed. In view of the experience of the working of the Dekkhan Agriculturists' Relief Act, we suggest that the rules to be made under the proposed Act should be so framed as to leave little ground for any disputes regarding the non-receipt of the extract of accounts or for the production of any false evidence on this score.

We recommend that legislation on these lines should be undertaken without delay. The Act will secure the position of honest parties on both the sides and will facilitate the work of the Courts in examining the history of the transactions and will greatly reduce the amount of false evidence produced in Court. We also suggest that provision should be made for the issue of a pass-book in a prescribed form to the debtor and for its regular maintenance. Although the system has not in the past proved a success, it has an educative value which will have its beneficial effect on the cultivating classes. We, therefore, attach considerable importance to the regular maintenance of pass-books. As education in business grows, we have no doubt that the debtor will appreciate his own responsibility for protecting his financial interests.

(2) An objection may possibly be raised to these proposals. As we mention in another chapter, in some parts of the Province agriculturists who do not resort to moneylending as a profession often advance loans to other agriculturists and it may be difficult for them to

Serial
No.

them to keep accounts and supply copies to their debtors. This difficulty may be overcome by restricting, as the Punjab Act does, the term "Creditor" to persons who advance loans in the regular course of business.

(2) The High Court is of the same opinion. The Chief Justice considers that the system of licensing money-lenders will be unworkable and impracticable and in a large and wide spread business like money lending, and the object intended to be achieved by it will be frustrated. He also recommends the introduction of a system similar to that of "Receipts and statements of accounts" provided in Chapter (3) of the Mysore Agriculturists Relief Regulation with necessary modifications on the lines of the Punjab Act.

(5) The Punjab Act is more comprehensive in regard to the keeping of accounts than the Agriculturists Relief Regulation.

(8) The Punjab Act may be adopted with the addition of two provisions similar to sections 16 and 18 of the Agriculturists Relief Regulation making it obligatory on the part of the creditor to tender receipts for payment and to issue passbooks for the accounts.

Chief Secretary

Ce
47/1/193

CHIEF
SECRETARY

5 JAN. 1932

NOTE—Contn. Sheet.

Serial
No.

As pointed out by the High Court any system of licensing money-lenders in Mysore would be unworkable. It may be doubted, however, whether the alternative that is suggested offers any better solution. According to the Punjab Regulation of Accounts Act, every money lender (creditor) is required to maintain an account of each debtor separately and to furnish the latter once every six months a statement of all transactions relating to the loan during that period and of the balance or amounts outstanding. If he fails to comply with these requirements, the Court disallows the whole or a portion of the interest found due for the period as well as court costs.

(b) Section 16 and 18 of the Agriculturists' Relief Regulation, which it is also proposed to embody in the new bill, make it obligatory on the part of the creditor to tender receipts for payments and to issue pass books for account.

(c) An enactment on these lines would not serve to prevent or even to expose extortionate practices on the part of unscrupulous money-lenders. With a debtor who will do anything to get some accommodation, it will be by no means difficult for the lender to over-state the amount advanced or adopt other familiar devices to conceal the real extent of liability. On the other hand an ignorant and needy borrower will derive no benefit in getting half yearly accounts and receipts for payments, when he is not in a position to understand these documents, much less to question their accuracy.

NOTE—Contn. Sheet.

Proposals for legislation of this kind are likely to evoke considerable opposition on the ground that they impose on the honest money lender doing business in a small way ~~the~~^a heavier responsibility than he can be expected to discharge.

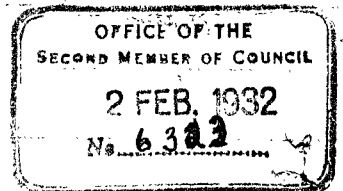
(e) So far as the Pathan is concerned, any legal ^{in the} embodiment to the recovery of his dues would be overcome by a more frequent resort to forcible methods of settlement out of court. On the whole, it seems ~~to be~~^{is} nothing useful to be gained by introducing this piece of legislation.

Second Member
Dewan

Recd

1/2/32

6/1/32



(b) I generally agree with the Chief Secs. greater protection to borrowers can be given by extending the provisions of the agriculturists' Relief Regn to this part of the State.

In regard Pathans we have not been taking hearing of their violent methods. Inquisition of better control over them may be over for the present.

2.2.32

Amoyan

(17) Am
31-2-32

Serial
No.

Subd with a draft returning
the document received with D.C.P.'s
letter of 21.12.28.

After issue the file will be
passed on to Courts Section for
taking action for extending the
provisions of the Agri Relief Act
as directed at para 16.

Done M8K
8/2/32

Issue
mp
9/2

Issued No P4557 of 13.2.32

Extract given to Courts Section.
This may be recorded in B.

Done M8K
13/2/32

6, 3/3/32

SUBJECT.....

Section

File No.

Diary No. of letter replied to.....

Serial No.

No.

P 600-

General and Revenue Secretariat

the

192

To

(1) Mr. Inspector General
of Police &

(2) Mr. Dy. Commr. Bangalore

Date of issue.....

26/7/28

Sir,

Signed by.....

W N S

I am directed to
invite your attention
to the
letter
communication headed
'Kandhari Bankers in
Bangalore' appearing in
the Correspondence Columns
of the Vakiligara Patrika
dated the 25th April 1928
& to request you to
furnish a report in the
matter at an early date
over I have etc

List of enclosures.....

Copied by

Examined by

Dated Bangalore, the 4th September 1928

FROM

G. B. HEBLIKAR, ESQ., B.A., LL.B.,
*Deputy Commissioner,
Bangalore District.*

TO

B. Nagappa, Esq., Bar-at-law,
Secretary to the Government of Mysore,
Law Department, Bangalore.

SIR,

Subject:— Khandari Bankers in Bangalore.

With reference to your letter No.P.640-1/Police dated 26th July 1928 regarding the communication headed "Khandari Bankers in Bangalore in the Vokkaligara Patrike of the 25th April 1928, I have the honour to forward herewith a copy of letter No. D2 Dis.44/28-29 dated 25th August 1928 from the Assistant Superintendent of Police, Bangalore City, stating that as the parties resort to the Khandari money lenders and execute documents with their eyes wide open, the Police cannot take any action. There is no doubt, truth in what the Assistant Police Superintendent says but it cannot be gainsaid that a good many of these Khandaries resort to the use of abuse, annoyance and even violence sometimes, to secure repayment of their loans. The debtors on account of their helpless position and the fear of physical violence ^{do not} ~~searcely~~ complain of the treatment and the Police are not ~~they~~ in a position to do anything.

2. Personally I think that these money lenders should be compelled by a special enactment (1) to get their names registered as such and obtain license for carrying on moneylending (2) to keep a list of their debtors (3) to maintain accounts in English or Urdu in respect of each debtor and (4) to make them available to the Police or specified Magistrates when called upon to do so. The District Magistrate should be empowered to cancel their registration and report them on grounds to be given by him in writing.

3. I think that we should also introduce here a negulation similar to the Act under which undesirable aliens are deported from the

from the Bombay City.

I have the honour to be,
Sir,
Your most obedient servant,

A handwritten signature in cursive script, appearing to read "S. M. Heblan".

Deputy Commissioner,
Bangalore District.

Letter No. D2 Dis.44/28-29 dated 25th August 1928 from the Assistant Superintendent of Police, Bangalore City, to the District Magistrate, Bangalore District. (1

With reference to your memo No.J.563/28-29 dated the 3rd August 1928 forwarding copy of the letter No.T.640/28 dated 26th July 1928 from the Secretary, Law Department, regarding the letter headed "Kandhari Bankers in Bangalore" in the Vokkaligara Patrike of the 25th April 1928, I have the honour to forward herewith the cutting of the said paper containing the above mentioned letter and to state that I am also informed that the Kandhari Bankers are charging usurious rates of interest and also get documents executed for amounts larger than the advance. As the parties who resort to the Kandhari money lenders execute those documents with their full knowledge and consent, the Police cannot take any action.

"Copy"

G. M. Subbar

District Magistrate,
Bangalore District.

POLICE DEPARTMENT.

No. 12 834 C1
28

OFFICE OF THE
INSPECTOR-GENERAL OF POLICE IN MYSORE,

Dated, Bangalore, 18th September 1928

FROM

S. HIRIANNAIYA, Esq., M.A., B.L.,
Inspector-General of Police in Mysore,
Bangalore.

To

B.Nagappa, Esq., Bar-at-Law.,
Legal Remembrancer and Secretary to
Government, Law Department.

Sir,

With reference to your letter No.P.640-1/Police dated the 26th July 1928 inviting reference to the letter headed "Kandhari Bankers in Bangalore" in the 'Vokkaligara Patrike' of the 25th April 1928 and requesting a report in the matter, I have the honour to forward herewith copy of letter No.D2.Dis.85 of 28 dated the 7th instant received from the Assistant Superintendent of Police, Bangalore city, reporting that no action can be taken by the Police in the matter as the parties owing to their pressing demands - approach the bankers and execute documents of their ^{free} will and that all Division Inspectors and Station House Officers have been - instructed to take steps if these bankers wrongfully confine or wrongfully restrain their debtors in order to recover their debts.

I have the honour to be,

Sir,

Your most obedient servant,

S. Hiriannaiya
Inspector General of Police.

ms

Letter No.D2.Dis.85/28 dated 7th September 28 from
the Assistant Superintendent of Police, Bangalore city to
the Inspector General of Police in Mysore, Bangalore.

With reference to your docket No.D2.Dis.703/28
dated the 3rd instant, calling for a report on an article
headed 'Kandahri Bankers in Bangalore' published in the
"Vokkaligara Patrike" of the 25th April 1928, I have the
honour to state that it is ascertained that these bankers
are charging usurious rates of interest and compel the
parties to execute documents for amounts larger than what
they pay. As the parties, owing to their pressing demands,
approach these bankers and execute documents of their own
free will, I am of opinion that no action can be taken by
Police in the matter.

All Division Inspectors and Station House Officers
have been instructed to take steps if these bankers wrong-
fully confine or wrongfully restrain their debtors in order
to recover their debts.

" C O B Y "

A handwritten signature in dark ink, appearing to read 'G. Lawrence', written in a cursive style.

for Inspector General of Police.

Diary No. of letter replied to.....

General and Revenue Secretariat

the 192

Date of issue.....

Signed by.....

List of enclosures.....

Copied by.....

Examined by.....

Section

File No.

Seria No.

No.

To

.....The Inspector General
of Police in Mysore

Sir,

With refer to the

~~Correspondence ending with~~

your letter no D₂ 834/28

of 18/19. 9. 1928 re Kantha
Bankers in Bangalore, I am

directed to request you to

kindly obtain & forward for

the ^{personal} information of Govt

on the copies of same

3 typical loan docu

referred to in the Rep.

of the A.S.P Bangalore is

Subam en

✓ Secy to Govt
Kane etc.

POLICE DEPARTMENT.

No.

C 1104 21
28

2742
OFFICE OF THE

INSPECTOR-GENERAL OF POLICE IN MYSORE,

Dated, Bangalore, the 21st Decr. 1928

FROM

S. HIRIANNAIYA, Esq., M.A., B.L.,
*Inspector-General of Police in Mysore,
Bangalore.*

TO

B. Nagappa, Esq., Bar-at-Law,
Legal Remembrancer & Secretary to Government,
Law Department.

Sir,

With reference to your letter No.P.2348/Legis.dated the 17/
18th October 1928 regarding copies of some loan documents of "Khandhari
Bankers" in Bangalore, I have the honor to forward herewith for favour
of perusal of Government and return a document received from the
Superintendent of Police,, Bangalore City and Taluk with his letter No.
H.C.659 of 28 dated the 13th instant.

I have the honor to be,
Sir,
Your most obedient servant,

S. Hiriannaiya
Inspector General of Police.

TH

Section

File No.

Serial No.

Diary No. of letter replied to.....

No.

11 26

General and Revenue Secretariat

()

the

192

To

Free Secretary

Date of issue.....

15/11/29

Punjab Legislative Council

Lahore

Signed by.....

M. N. S.

Sir,

to request you to be
to good as to forward,
for ^{reference} ~~the information~~ of
encd, a copy of the

List of enclosures.....

Honey Rinder Bill and

Copied by.....

the Consideration of the
Legislative Council
Punjab Co-gether with
a copy of the Report of
the Select Committee thereon

Examined by.....

over



No. 1874

From

Hakim Ahmed Shujaa, B.A.,
Secretary, Punjab Legislative Council,

To

The Secretary to Government of His Highness
the Maharaja of Mysore, Law Department,
General and Revenue Secretariat,
B E N G A L O R E.

Dated Lahore, the 26th November 1929.

Sir,

As desired in your letter of the 15th instant, I have the honour to send herewith a copy of the Report of the Select Committee on the Punjab Regulation of Accounts Bill which is under the consideration of the Punjab Legislative Council in its present session, and to say that copies of the Act, when this Bill is passed into law, may kindly be obtained direct from the Superintendent, Government Printing, Punjab Lahore, where copies of the Acts are kept for sale.

I have the honour to be,

Sir,

Your most obedient servant,

Secretary, Legislative Council.

Shujaa
7-11-29

SUBJECT.....

Section *Legal*

File No. *55-31*

Serial No.

Diary No. of letter replied to.....

No.

P 148

To

*The Registrar, High Court
of Mysore*

General and Revenue Secretariat

()

the

193

Sir,

Date of issue.....

6/7/31

Signed by.....

M. C. S.

The attention of Court
has been drawn from time
to time to the desirability
of enacting legislation
in line with British Money Lenders Act 1927
to prevent objectionable
+ Mawani
activities of Palani Money
lenders whose numbers
are said to be increasing
in the State.

List of enclosures.....

Govt consider that

Copied by.....

There are ^{insufficient} provisions

Examined by.....

in the existing law imposing
penalty to give relief
against ~~the~~ present ^{various} transactions.

~~However~~ the subject
matter of ~~discovery~~ being
one in which the Courts
are concerned, I ~~was~~
~~be much~~ am
directed to request you
to be so good as to
obtain and communicate
to me the opinion of
the High Court in the
m. "

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

29

No.

Bangalore, Dated, ...

From

N. MADHAVA RAO, Esq., B. A., B. L.,

Chief Secretary to the Government of His Highness the Maharaja of Mysore.

To

The Registrar,
High Court of Mysore,
B A N G A L O R E.

Sir,

The attention of Government has been drawn from time to time to the desirability of undertaking legislation on the lines of the British Money Lenders' Act 1927, to prevent objectionable activities of Pathan and Marwari money lenders whose numbers are said to be increasing in the - - State.

2. I am directed to request you to be so good as to obtain and communicate to Government the opinion of the - High Court in the matter.

I have the honor to be,
S i r,
Your most obedient servant,

u
CHIEF SECRETARY TO GOVERNMENT.

E. W. 1/2.

Telgm :
"JUSTICE"

HIGH COURT OF MYSORE,
Public Office Buildings, Cubbon Park,

Bangalore, 30th October.....1931.

R. O. C.	No. 68
Dis.	31-32

Ex: Gu P.P(1-3)

Legal 55-31-2

FROM

~~H. M. Krishnaswami, Esq., B.A., B.L.,~~

The Registrar, High Court of Mysore.

TO

H. V. Ramaswami, Esq., M.A., B.L.,

Secretary to Government, General Department

SIR,

Bangalore.

Adverting to your letter No.P.148/Legis.dated the 6th July 1931 requesting the opinion of the High Court in the matter of the desirability of undertaking legislation in Mysore on the lines of the British Money Lenders' Act 1927, to prevent objectionable activities of Pathan and Marwari money lenders, I am directed to forward herewith the opinion of the Judges in the matter.

I have the honour to be,

Sir,

Your most obedient servant,

M. V. Srinivasan

Deputy Registrar
Doing Duty as Registrar.

RV

RV:

THE MONEY LENDERS ACT 1927 (17 & 18 GEO V).

CHIEF JUSTICE.-

The Statutory Law in England with regard to money lenders is now to be found, for the most part, in the Money Lenders Act 1927, which came into force on the 1st January 1928. The system of Registration of money lenders, provided for in the Money Lenders Act 1900 (63 and 64 Vict. C 51), is now abolished, and in its place a system of licensing has been substituted. The Money Lenders Act of 1900 is also in force, except Sections 2 and 3, and the words "registration under" in para (e) of Section 6.

In British India, the mischief that arose from the Usury Laws Repeal Act was remedied to some extent by amending Section 16 of the Indian Contract Act and adding Section 19 A in the Act. These amendments -- conferred on the Courts equitable jurisdiction in -- cases relating to usurious contracts in which undue influence was established. Where, however, the element of undue influence was not present, the Courts had no power to grant relief against exorbitant rates of interest. To remedy this defect, the Usurious Loans Act, 1918 was passed.

In Mysore, the Legislature adopted the amendments in the Contract Act, and a Regulation (Usurious Loans Regulation 1923) on the lines of the Usurious Loans Act was passed. The Usurious Loans Act follows in the main the English Money Lenders Act 1900.

The registration of money lenders, for which provision was made in the Money Lenders Act 1900, in England, was not incorporated in the Usurious Loans Act, in India, and it appears to me that the system of 'licensing' the money lenders under the Money Lenders Act of 1927 will be unworkable; at any rate the object intended to be achieved by it can be frustrated. In a small business, confined to a small area, and for the protection of a special industry, as in the Kolar Gold Fields, where the system of licensing gold dealers and goldsmiths is made a Statutory obligation, it may be possible to effectively control the system. But I doubt whether it would be practicable to do so, in a large and wide spread business like money lending.

I am therefore of opinion that it will not be of much advantage to introduce legislation in Mysore on lines similar to those contained in the Money Lenders Act 1927. If safety measures are required to protect the borrowers, a system similar to that of 'Receipts and Statements of accounts' provided in Chapter III of the Mysore Agriculturists Relief Regulation No. XVIII of 1928, may be introduced with necessary modifications, perhaps, on the lines of the Punjab Regulation of Accounts Act of 1930. This is the recommendation made by the Bombay Provincial Banking Enquiry Committee Volume I page 185 and accepted by the Central Banking Enquiry Committee.

Mr. Justice P. Mahadevayya.

"I quite agree".

Mr. Justice M. Ramachandra Rao.

"I also agree".

M. V. Vasu

Deputy Registrar

Doing Duty as Registrar.

RV.

SUBJECT

Section

File No.

Serial No.

Diary No. of letter replied to

No

4557 (11)

To

The Inspector General
of Police

General and Revenue Secretariat

()

the

193 .

Sir,

I am directed to

Date of issue

13/2/32

return herewith the
on demand promissory note for Rs 20/- executed
by one R. Wignathappa in favour of Sd/- K. H. Wai
original document forwarded
with your letter no C/1104/28
dated 21.12.1928.

Signed by

M. C. S.

with your letter no C/1104/28

dated 21.12.1928.

I have M

Dy

a/r

In Chief Secy G.P.

List of enclosures

M
82

Copied by

M. C. S.

Examined by

The

The Inspector General of Police in Mysore,
Bangalore.

I am directed to return herewith the on demand promissory note for Rs.20/- executed by one R.Krishnappa in favour of Syed Kudai Dhosth forwarded with your letter No.C. 1104/28 dated 21st December 1928.

I have the honour to be.

Sir,

Your most obedient servant,

For Chief Secretary to Government.

Bou